



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

October 14, 1996

Ms. Elaine S. Hengen  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza  
El Paso, Texas 79901-1196

Open Records Decision No. 649

Re: Whether the originating telephone numbers and addresses obtained from a 9-1-1 district's use of a telephone service supplier's database are confidential by law under section 772.318 of the Health and Safety Code in conjunction with section 552.101 of the Government Code (RQ-838)

Dear Ms. Hengen:

The City of El Paso (the "city") received several open records requests for records relating to 9-1-1 calls made concerning particular addresses. One requestor specifically seeks the origination of a particular 9-1-1 call. The city contends that these records may be withheld from required disclosure pursuant to sections 552.101 and 552.108 of the Government Code. You have submitted for our review copies of the Computer Aided Dispatch (CAD) reports of the related 9-1-1 calls.

You contend that all information on a 9-1-1 call record is excepted from required disclosure by section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. You state that the emergency 9-1-1 district at issue was established in accordance with the provisions of subchapter D of chapter 772 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts ("districts").<sup>1</sup>

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<sup>1</sup>Subchapter B of chapter 772 governs 9-1-1 districts for counties with a population over two million; subchapter C applies to 9-1-1 districts for counties with a population over 860,000; subchapter D applies to 9-1-1 districts for counties with a population over 20,000 and subchapter E establishes districts for counties with a population over 1.5 million.

You state that Southwestern Bell has built a public service database of addresses and telephone numbers which it supplies to the 9-1-1 districts. You explain that when a person places a call to the 9-1-1 service, the originating telephone number goes into a computer that is matched to the public service database which then provides the 9-1-1 call-taker with the address and the name of the person who pays for the telephone service of the originating call. You contend that under section 772.318 of the Health and Safety Code, the originating 9-1-1 caller's telephone number and address supplied by Southwestern Bell to the 9-1-1 district are confidential. You then contend that because this statute makes the address and telephone number confidential that all other information acquired during the 9-1-1 telephone call is also confidential.

Section 552.101 of the Government Code "excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 772.318 of the Health and Safety Code provides, in pertinent part, the following:

(a) As part of computerized 9-1-1 service, a service supplier shall furnish current telephone numbers of subscribers and the addresses associated with the numbers on a call-by-call basis.

....

(c) Information furnished under this section is confidential and is not available for public inspection.

Based upon the clear language of section 772.318, we conclude that only the originating telephone numbers and addresses gained by the 9-1-1 district's use of Southwestern Bell's database are confidential and the city must withhold this information from the requestors. Section 772.318 does not except from disclosure all information obtained during a 9-1-1 call.<sup>2</sup>

You argue that withholding the originating telephone numbers and addresses is not sufficient because other information obtained from the 9-1-1 call will identify the person calling 9-1-1. You analogize to open records decisions in which this office has concluded that where a requestor provides the name of a sexual assault victim and asks for the police report of the victim, the entire report may not be disclosed to protect the common-law privacy of the victim. *See* Open Records Decision No. 339 (1982). You argue that "the only way that the confidentiality of the addresses can be protected when the requestor asks for 9-1-1 information based on an address is to withhold the records in their entirety."

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<sup>2</sup>Subchapters B and C contain similar confidentiality provisions. *See* Health & Safety Code §§ 772.118, .218. Notably, however, subchapter E, which applies to counties with populations over 1.5 million, does not contain a confidentiality provision regarding 9-1-1 telephone numbers and addresses. Section 772.401, *et seq.*

We disagree with your argument for two reasons. First, the subject address of a 9-1-1 call is not always the same as the number from which a 9-1-1 call is placed. For example, a neighbor may be calling about a situation occurring at another address. Similarly, the 9-1-1 call may be placed from a cellular telephone not connected with the address that is the subject of the 9-1-1 call. Thus, in many situations, the telephone number and address of the person calling has nothing to do with the location of the incident.

Second, we note that the language of a confidentiality provision controls the scope of the protection. Attorney General Opinion DM-181 (1992) at 5; Open Records Decision No. 478 (1987). Furthermore, in light of the act's mandate in section 552.001(a) that "it be liberally construed in favor of granting a request for information," confidentiality provisions will be strictly construed. *A & T Consultants, Inc., v. Sharp*, 904 S.W.2d 668, 679 (Tex. 1995) (concluding that to determine whether certain tax information is confidential by statute court must "giv[e] a narrow reading to the Tax Code's confidentiality provisions and a liberal reading to the [Open Records Act]"). In this case, section 772.318 makes confidential only "current telephone numbers of subscribers and the addresses associated with the numbers on a call-by-call basis." Thus, you may not withhold the CAD records in their entirety under this provision.<sup>3</sup>

Regarding the remainder of the information contained in the 9-1-1 reports, we note that in Open Records Decision No. 394 (1983) this office concluded that the types of information contained in radio logs and radio cards utilized by the City of Pampa Police Department were no different from the types of information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and therefore is not excepted from disclosure under section 552.108. The information in the radio logs included among other things, the name, telephone number and address of the person who placed the call, ID numbers of the dispatcher who took the call and the police officers dispatched to the scene, the time the call was received and responded to, and comments relating to the situation. The same holds true here; the information contained in the CAD reports is substantially the same as that specifically held to be public in *Houston Chronicle Publishing Co.*, and, therefore, the city may not generally withhold it from the public pursuant to either section 552.101 or 552.108 of the Government Code. Open Records Decision No. 366 (1983) at 1.<sup>4</sup>

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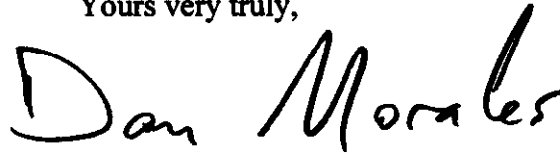
<sup>3</sup>You have raised various other exceptions to disclosure for the remaining information on the CAD reports. We will address those exceptions in an informal Open Records Letter.

<sup>4</sup>We note, however, that in Open Records Decision No. 394 (1983) at 4, this office acknowledged that the withholding of the identity of a complainant or informant may occasionally be justified under the statutory predecessor to section 552.101.

**S U M M A R Y**

Originating telephone numbers and addresses furnished on a call-by-call basis by a service supplier to a 9-1-1 emergency communication district established under subchapter D of chapter 772 of the Health and Safety Code are confidential under section 772.318 of the Health and Safety Code. Section 772.318 does not except from disclosure any other information contained on a computer aided dispatch report that was obtained during a 9-1-1 call. Other exceptions to disclosure in the Open Records Act may apply to information not otherwise confidential under section 772.318 of the Health and Safety Code.

Yours very truly,

A handwritten signature in black ink that reads "Dan Morales". The signature is written in a cursive, flowing style.

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